

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

LANDWORKS CREATIONS, LLC,)	
Plaintiff,)	
v.)	
UNITED STATES FIDELITY AND)	C.A. No. 4:05-CV-40072-FDS
GUARANTY COMPANY,)	
Defendant.)	

**REQUEST OF UNITED STATES FIDELITY & GUARANTY COMPANY
FOR SPECIAL VERDICT UNDER F.R.C.P. 49(a)**

Defendant, United States Fidelity & Guaranty Company, requests that this Court adopt the Special Verdict attached hereto.

Respectfully submitted,
**UNITED STATES FIDELITY &
GUARANTY COMPANY,**
By its attorneys,

/s/ Peter G. Hermes

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Dated: May 14, 2008

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

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Plaintiff,)	
v.)	
UNITED STATES FIDELITY AND)	C.A. No. 4:05-CV-40072-FDS
GUARANTY COMPANY,)	
Defendant.)	

SPECIAL VERDICT UNDER F.R.C.P. 49(a)

1. Did Landworks fully perform all of its work under the Ratification Agreement with USF&G?

Yes: _____ No: _____

If your answer to Question 1 is “Yes,” please proceed to Question 3.

If your answer to Question 1 is “No,” please proceed to Question 2.

- 2.* Did Landworks substantially perform the Ratification Agreement with a good faith intention to perform fully the Ratification Agreement?

Yes: _____ No: _____

If your answer to Question 2 is “Yes,” please proceed to Question 3.

If your answer to Question 2 is “No,” please proceed to Question 5.

3. Did USF&G breach the Ratification Agreement?

Yes: _____ No: _____

If your answer to Question 3 is “Yes,” please proceed to Question 4.

If your answer to Question 3 is “No,” please proceed to Question 5.

4. What is the amount, if anything, that is owed Landworks under the Ratification Agreement?

Amount in words _____

Amount in figures _____

This amount cannot exceed \$135,101.00

Please proceed to Question 5.

5. What is the reasonable cost to USF&G to complete Landworks' work under the Ratification Agreement?

Amount in words _____

Amount in figures _____

Please proceed to Question 6.

6. Did Landworks have a subcontract with Jackson Construction Company, Inc.?

Yes: _____

No: _____

If your answer to Question 6 is "Yes," please proceed to Question 7.

If your answer to Question 6 is "No," your service is complete. Please sign this form and return to the courtroom.

7. Did Landworks fully perform its subcontract with Jackson?

Yes: _____

No: _____

If your answer to Question 7 is "Yes," please proceed to Question 9.

If your answer to Question 7 is "No," please proceed to Question 8.

- 8.* Did Landworks substantially perform its subcontract with Jackson with a good faith intention to perform fully the subcontract?

Yes: _____

No: _____

If your answer to Question 8 is “Yes,” please proceed to Question 9.

If your answer to Question 8 is “No,” please proceed to Question 10.

9. What is the amount, if anything, that is owed Landworks under its subcontract with Jackson?

Amount in words _____

Amount in figures _____

The total of numbers 4 and 9 cannot exceed \$135,101.00.

Please proceed to Question 10.

10. What is the reasonable cost to USF&G to complete Landworks’ work under the Jackson subcontract?

Amount in words _____

Amount in figures _____

Date:

FOREPERSON OF THE JURY

*These questions are provisional only because it is USF&G’s position that no claim in *quantum meruit* has been pleaded or proven under Count I (Breach of Contract).